

18 October 1978

org. Scientology

Customs Agents Upheld in Seizing Scientology Papers

Tribunal Rejects Church Arguments That Law Is Not Valid and Search Warrant Is Required

BY ROBERT RAWITCH

Times Staff Writer

U.S. Customs Service officials did not violate constitutional guarantees against prior restraint of speech when they temporarily detained and reviewed thousands of documents sent to Los Angeles by the Church of Scientology in England two years ago, a three-judge federal panel has ruled.

The unanimous opinion written by U.S. Dist. Judge William P. Gray held that a federal statute prohibiting importation into the United States of written material advocating treason, forcible resistance to any federal law or threats to harm or kill anyone is constitutional "when properly construed and applied."

After the July 3, 1976, detention of its documents, the Church of Scientology attacked the statute as overbroad, a prior restraint on speech and void because of vagueness.

Even if the statute was valid on its face, the church contended, customs officials should not have been able to review the internal church documents extensively without a search warrant. Among the documents were communications with church attorneys and purported confessional statements of Scientology members.

The three-judge panel, which included U.S. Dist. Judge Warren J. Ferguson and 9th U.S. Circuit Court of Appeals Judge Stanley N. Barnes, rejected each of the Church of Scientology's contentions.

Customs officials at Los Angeles International Airport, where the four boxes of documents were intercepted, testified at hearings that the material initially was detained when an inspector routinely scanning the documents saw references to the CIA, Interpol, debugging, decoding machines and sabotage.

Inspector Larry Hoyle also said he read a sentence in a document about an individual who, the document said, "doesn't have a criminal record because they don't know that he killed his wife." The individual referred to was not identified in court records.

The documents detained were returned to the church but Gray allowed copies to be made of those the government believed were potential evidence of a crime.

Ultimately, only four documents were copied, one of which was a handwritten letter dated in early 1975 by a Scientologist in Great Britain proposing use of an "agent to penetrate" the U.S. attorney's office in Los Angeles to obtain files on the church.

The letter, which has never been released publicly, was summarized by church attorney H. Peter Young in a pleading filed with the court.

The church attorney said the government had made "no showing whatsoever that this letter was anything more than a misguided fantasy by a single individual."

The letter was never communicated to anyone, Young added, and it lacked initialed approval by church leaders in Great Britain and the United States.

Eleven U.S. Scientology leaders and two living in England were indicted this summer in Washington, D.C., on charges of conspiring to infiltrate and burglarize government offices.

The judges' opinion obtained Tuesday stated: "Under the Customs Service's broad powers to restrict imports and conduct a search of materials entering the country from abroad, this temporary delay and retention of documents (10 days) does not constitute a constitutional deprivation."

On the issue of whether a search warrant should have been obtained by customs officials after they had determined the documents were importable, the panel held none was necessary because officers have the right to seize any evidence of a crime that is in plain view during a search conducted in good faith.

There was no evidence of bad faith by the custom officials, the judges said.

A church of Scientology spokesman said no determination had been made on whether to appeal the three-judge panel's decision. However, spokesman Jeff Dubron added:

"These government agents are the proud possessors of a repressive law that allows them at will and with no due cause to go through any and all possessions of American citizens entering the United States."

"Much like the Internal Revenue Service, customs is an ideal agency of political expediency. The American public should be aware that here is an agency that is not bound by the spirit of the Constitution."

"We asked the court to strengthen the Fourth Amendment rights of all American citizens. True to trend, the rights of the citizen have once again lost to the demands of the state."